



LICENSING COMMITTEE REPORT

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a. Consideration of Possible Revisions to Regulation(s) Regarding Pharmacy Technician Training Programs (Title 16 CCR §1793.6)

For several meetings, the committee has been discussing the requirements for licensure as a pharmacy technician. As part of its discussion the committee has reviewed the various pathways to licensure, as well as enforcement actions and denials of applications. The committee has heard presentations about the certification exams used for licensure, presentations by various employers about their training programs, as well as a presentation about upcoming changes to technician training programs accredited by the American Society of Health Systems Pharmacists.

The committee and board have expressed concern about some individuals that are seeking licensure through technician training programs (programs that can be quite costly) who have criminal backgrounds that will most likely result in denial of their application. The committee recognizes that not all such training programs are equal in terms of the quality of the program, but expressed concern that the minimum requirements established in law for such programs may no longer be adequate.

During the January 2016 board meeting, the board agreed in concept with the recommendations of the committee to modify Title 16 CCR section 1793.6 to strengthen the requirements of some pharmacy technician programs by including a minimum age requirement at admission (18 years old), requiring a criminal background check and requiring the administration of at least one drug test. Further, the program would be required to administer a final examination.

The committee discussed these possible changes again during its March meeting and advised the board during the April Board Meeting that it continues its efforts.

Committee Discussion and Recommendation

The committee discussed the proposal language in detail and heard public comment in support of the regulation.

Committee Recommendation: Approve proposed the amendments to section 1793.6 incorporating the changes suggested by legal counsel.

Attachment 1 includes the approved language for board consideration.

b. Consideration of the Duties of a Pharmacy Technician and Discussion on the Pharmacist to Pharmacy Technician Ratio in the Community Pharmacy Setting

Business and Professions Code section 4115 specifies that a pharmacy technician may perform packaging, manipulative, repetitive or other nondiscretionary tasks, only while assisting, and while under the direct supervision and control of a pharmacist. Further, Title 16 California Code of Regulations section 1793.2 specifies specific duties that may be performed by a pharmacy technician, as listed below. **Attachment 2** contains the various statutory and regulatory references related to pharmacy technicians.

- Removing the drug or drugs from stock
- Counting, pouring, or mixing pharmaceuticals
- Placing the product into a container
- Affixing the label or labels to the container
- Packaging and repackaging

During the April Board Meeting the board requested that this committee discuss the current pharmacist to pharmacy technician ratio.

To begin this discussion, board staff suggested that the committee focus on the community practice setting first. In preparation for this first discussion, board staff reviewed how various states regulate pharmacy technicians. Based upon the review, it appears that forty-five states require either registration or licensure as a pharmacy technician.

The tasks that may be performed by technicians vary from state-to-state. For example, in Alabama pharmacy technicians may not handle controlled substances, whereas in Utah, in addition to duties consistent with pharmacy technician duties in California, pharmacy technicians may also counsel for OTC drugs and dietary supplements under the direct supervision of a pharmacist as well as accept new prescription drug orders left on a voice-mail for pharmacist review. In Alaska, if a pharmacy technician will assist in the preparation of sterile pharmaceuticals, the technician must have completed a minimum of 40 hours of on-the-job training in the preparation, sterilization, aseptic technique, and admixture of parenteral and other sterile pharmaceuticals before the pharmacy technician may regularly perform the tasks.

Ratio requirements vary as well. For example, in Washington the general ratio is 1:1 unless the medication is dispensed to a patient in a healthcare facility (where the ratio is 1:3). Washington also allows a pharmacy to submit a service plan to increase the number of pharmacy technicians a pharmacist may supervise. In South Carolina the ratio is one pharmacist to two technicians, however the ratio may increase to 1:3 if two of the three technicians are certified by a board approved program. Some states do not have specified ratios.

Committee Discussion and Recommendation

The committee discussed if there was a need and/or a demand to change the current ratio. Members noted that a change in the ratio requirement may be appropriate if it makes the pharmacist more accessible to consumers. The committee recognized the benefits of a good pharmacy technician and noted that an increase in the ratio could be a double edged sword. The committee noted that an increase in the number of pharmacy technicians would result in additional prescriptions being filled that will require a final check by a pharmacist.

The committee also heard from several members of the public, some of which were in support of an increase in the ratio, while others were more cautious

Committee Recommendation: Convene a summit with stakeholders to discuss the issue.

c. Consideration of Possible Revisions to Pharmacist Renewal Requirements and Content-Specific Continuing Education (Title 16 CCR §1732.5)

In November 2015, the board initiated a rulemaking to amend Section 1732.5 to amend continuing education requirements to specify that six of the 30 hours required for pharmacist license renewal shall be completed in one or more of the following subject areas:

- Emergency/Disaster Response
- Patient Consultation
- Maintaining Control of a Pharmacy's Drug Inventory
- Ethics
- Substance Abuse, Including Indications of Red Flags and a Pharmacist's Corresponding Responsibility
- Compounding

During the February 2016 Board Meeting, the board discussed this proposal and expressed some concern that the proposal may be overregulating the continuing education requirements. Comments from the public included that pharmacist should be allowed to use their professional judgement to determine what continuing education he or she needs; while other commenters indicated that the board should consider simplifying the list. At the conclusion of the board's discussion the board voted to refer the proposal back to the Licensing Committee to review the continuing education content areas and report back to the board.

Committee Discussion and Recommendation

The committee discussed the proposal and noted that many of the specified areas were important, including substance abuse, but noted that the topics may not be relevant for all pharmacists. The committee noted that some of the topics would be appropriate for licensees that are cited for violations.

The committee heard public comment in support of requiring law updates as part of the continuing education requirements.

Committee Recommendation: Withdrawal the proposed regulation change to California Code of Regulations Section 1732.5.

Attachment 3 includes a copy of the regulatory proposal.

d. **Consideration of Ownership Structures for Pharmacies, Including a Summary of a Presentation by the Office of the Attorney General Regarding Trusts and Possible Next Steps**

The board tracks the beneficial interest of business owners for pharmacies, whether they are natural persons or entities. Board regulation specifies the reporting of a transfer in the beneficial interest in the business and specifies the threshold as to when a change of ownership must be submitted to the board.

Business and Professions Code section 4035 defines a “person” as follows:

“Person” includes firm, association, partnership, corporation, limited liability company, state governmental agency, or political subdivision.

As the committee was advised during its last committee meeting, when processing a pharmacy application, the board identifies and records all levels of ownership of the applicant business. This is done through a careful analysis of all information submitted in support of the application, and often times identifies inconsistencies with respect to the ownership reported. For some, what is initially reported as (what appears to be) a simple, two- or three-level ownership structure, when staff uncovers details, it often turns out to be multiple levels of ownership with multiple stakeholders. It is common for applicants with complex ownership structures to argue that the board doesn’t need to know all of the information related to a pharmacy’s ownership.

Board staff has identified where (revocable or irrevocable) trust(s) is/are reported as owners of the applicant business. Pharmacy Law does not currently recognize a “trust” as a person to which the board is authorized to issue a license; however, in researching older licensing records, some trusts have been found to be on record as “shareholders” of existing licensees.

During the board meeting, the board was advised that as with other ownership structures, trusts can be used as a legitimate form of ownership, however they can be manipulated to hide ownership.

Committee Discussion and Recommendation

The committee heard a presentation from Matthew Heyn, Deputy Attorney General. Mr. Heyn discussed that one of the challenges currently facing the board is hidden ownership of

applicant business. Mr. Heyn referenced the Panama Papers that detailed two foreign-owned pharmacies held by trusts that ultimately allowed them to exert monopoly control using their hidden ownership. Mr. Heyn confirmed his belief that the board does not currently have the authority to issue a license to a trust owner and indicated that the board will need to identify what information should be collected as part of the application if it chooses to allow such ownership.

The committee heard information from the public that offered different opinions on what the law currently provides. The committee noted the important role a trust plays in estate planning.

Recommendation: Ask legal counsel to review statutes and regulations to propose a fix to resolve the trust issue and how to regulate the entities within the board's regulatory framework.

A copy of various pharmacy statutes and regulation related to ownership as well as letters from various stakeholders regarding this issue are provided in **Attachment 4**. More detail of the committee's discussion is provided in the meeting minutes in **Attachment 7**.

e. Licensing Statistics

The board received 16,423 applications last fiscal year including:

- 6,257 pharmacy technician applications
- 1,959 pharmacist license applications
- 754 pharmacy applications.

The board issued almost 12,000 licenses including

- 5,851 pharmacy technician licenses
- 1,978 pharmacist licenses
- 671 pharmacy licenses

The board renewed over 64,000 licenses and as of June 30, 2016 had 6,097 applications pending. **Attachment 5** includes the licensing statistics for fiscal year.

In addition to the annual licensing statistics, a 3-year comparison is also included in the meeting materials as **Attachment 6**. The overall trends for this comparison reveal the following:

- 5 percent decrease in the number of applications received.
- No significant change in the number of licenses issued.
- 4 percent increase in the number of applications pending.
- 4 percent increase in the number of licenses renewed.
- 2 percent growth in the overall licensing population of the board.

Committee Discussion

During its meeting, the committee discussed the licensing statistics for the first 11 months of the year as well as the current processing times. This information is provided in the committee meeting minutes in **Attachment 7**.

f. Future Committee Meeting Dates for 2016

The Licensing Committee meeting scheduled for this fall has changed to September 27, 2016.

Attachment 1

Draft Proposal to Amend Title 16 California Code of Regulations Section 1793.6

1793.6. Training Courses Specified by the Board.

A course of training that meets the requirements of Business and Professions Code section 4202 (a)(2) is:

(a) Any pharmacy technician training program accredited by the American Society of Health--System Pharmacists,

(b) Any pharmacy technician training program provided by a branch of the federal armed services for which the applicant possesses a certificate of completion, or

(c) (1) Any other course that provides a training period of at least 240 hours of instruction covering at least the following:

~~(1 A)~~ A Knowledge and understanding of different pharmacy practice settings.

~~(2 B)~~ B Knowledge and understanding of the duties and responsibilities of a pharmacy technician in relationship to other pharmacy personnel and knowledge of standards and ethics, laws and regulations governing the practice of pharmacy.

~~(3 C)~~ C Knowledge and ability to identify and employ pharmaceutical and medical terms, abbreviations and symbols commonly used in prescribing, dispensing and record keeping of medications.

~~(4 D)~~ D Knowledge of and the ability to carry out calculations required for common dosage determination, employing both the metric and apothecary systems.

~~(5 E)~~ E Knowledge and understanding of the identification of drugs, drug dosages, routes of administration, dosage forms and storage requirements.

~~(6 F)~~ F Knowledge of and ability to perform the manipulative and record-keeping functions involved in and related to dispensing prescriptions.

~~(7 G)~~ G Knowledge of and ability to perform procedures and techniques relating to manufacturing, packaging, and labeling of drug products.

(2) In addition to the content of coursework specified in subdivision (c)(1), the course of training must also satisfy all of the following:

(A) Prior to admission to the course of training, an administrator or instructor must conduct a criminal background check and counsel applicants to the program about the negative impact to securing licensure if the background check reveals criminal history.

(B) Administer at least one drug screening to evaluate use of illicit drugs or use of drugs without a prescription. The results of any screen shall be considered as part of the evaluation criteria to determine acceptance into the course of training or appropriateness for continuation in the course of training. An administrator or instructor shall counsel students about the negative impact of a positive drug screen on eligibility for licensure.

(C) Require students to be at least 18 years of age prior to the beginning of instruction.

(D) Require a final examination that demonstrates students' understanding and ability to perform or apply each subject area identified in subsection (1) above.

Authority cited: Sections 4005, 4007, 4038, 4115, 4115.5, and 4202, Business and Professions Code.

Reference: Sections 4005, 4007, 4038, 4115 and 4202, Business and Professions Code.

Attachment 2

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 2. HEALING ARTS

CHAPTER 9. Pharmacy [4000 - 4426]

ARTICLE 7. Pharmacies [4110 - 4126.5]

4115. (a) A pharmacy technician may perform packaging, manipulative, repetitive, or other ¹nondiscretionary tasks only while assisting, and while under the direct supervision and control of, a pharmacist. The pharmacist shall be responsible for the duties performed under his or her supervision by a technician.

(b) This section does not authorize the performance of any tasks specified in subdivision (a) by a pharmacy technician without a pharmacist on duty.

(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.

(d) The board shall adopt regulations to specify tasks pursuant to subdivision (a) that a pharmacy technician may perform under the supervision of a pharmacist. Any pharmacy that employs a pharmacy technician shall do so in conformity with the regulations adopted by the board.

(e) A person shall not act as a pharmacy technician without first being licensed by the board as a pharmacy technician.

(f) (1) A pharmacy with only one pharmacist shall have no more than one pharmacy technician performing the tasks specified in subdivision (a). The ratio of pharmacy technicians performing the tasks specified in subdivision (a) to any additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117. This ratio is applicable to all practice settings, except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in paragraph (2), an inmate of a correctional facility of the Department of Corrections and Rehabilitation, and for a person receiving treatment in a facility operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The board may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (a) to pharmacists applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the board pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for a single pharmacist in a pharmacy and two pharmacy technicians for each additional pharmacist, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117.

(3) A pharmacist scheduled to supervise a second pharmacy technician may refuse to supervise a second pharmacy technician if the pharmacist determines, in the exercise of his or her professional judgment, that permitting the second pharmacy technician to be on duty would interfere with the effective performance of the pharmacist's responsibilities under this chapter. A pharmacist assigned to supervise a second pharmacy technician shall notify the pharmacist in charge in writing of his or her determination, specifying the circumstances of concern with respect to the pharmacy or the pharmacy technician that have led to the determination, within a reasonable period, but not to exceed 24 hours, after the posting of the relevant schedule. An entity employing a pharmacist shall not discharge, discipline, or otherwise discriminate against any pharmacist in the terms and conditions of employment for exercising or attempting to exercise in good faith the right established pursuant to this paragraph.

(g) Notwithstanding subdivisions (a) and (b), the board shall by regulation establish conditions to permit the temporary absence of a pharmacist for breaks and lunch periods pursuant to Section 512 of the Labor Code and the orders of the Industrial Welfare Commission without closing the pharmacy. During these temporary absences, a pharmacy technician may, at the discretion of the pharmacist, remain in the pharmacy but may only perform nondiscretionary tasks. The pharmacist shall be responsible for a pharmacy technician and shall review any task performed by a pharmacy technician during the pharmacist's temporary absence.

¹ Nondiscretionary tasks defined at 16 CCR § 1793.2

This subdivision shall not be construed to authorize a pharmacist to supervise pharmacy technicians in greater ratios than those described in subdivision (f).

(h) The pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician supervised by that pharmacist.

(i) In a health care facility licensed under subdivision (a) of Section 1250 of the Health and Safety Code, a pharmacy technician's duties may include any of the following:

(1) Packaging emergency supplies for use in the health care facility and the hospital's emergency medical system or as authorized under Section 4119.

(2) Sealing emergency containers for use in the health care facility.

(3) Performing monthly checks of the drug supplies stored throughout the health care facility. Irregularities shall be reported within 24 hours to the pharmacist in charge and the director or chief executive officer of the health care facility in accordance with the health care facility's policies and procedures.

(Amended by Stats. 2015, Ch. 303, Sec. 5. Effective January 1, 2016.)

4115.5. (a) Notwithstanding any other provision of law, a pharmacy technician trainee may be placed in a pharmacy to complete an externship for the purpose of obtaining practical training required to become licensed as a pharmacy technician.

(b) (1) A pharmacy technician trainee participating in an externship as described in subdivision (a) may perform the duties described in subdivision (a) of Section 4115 only under the direct supervision and control of a pharmacist.

(2) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall be directly responsible for the conduct of the trainee.

(3) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall verify any prescription prepared by the trainee under supervision of the pharmacist by initialing the prescription label before the medication is disbursed to a patient or by engaging in other verification procedures that are specifically approved by board regulations.

(4) A pharmacist may only supervise one pharmacy technician trainee at any given time.

(5) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall certify attendance for the pharmacy technician trainee and certify that the pharmacy technician trainee has met the educational objectives established by a California public postsecondary education institution or the private postsecondary vocational institution in which the trainee is enrolled, as established by the institution.

(c) (1) Except as described in paragraph (2), an externship in which a pharmacy technician trainee is participating as described in subdivision (a) shall be for a period of no more than 120 hours.

(2) When an externship in which a pharmacy technician trainee is participating as described in subdivision (a) involves rotation between a community and hospital pharmacy for the purpose of training the student in distinct practice settings, the externship may be for a period of up to 320 hours. No more than 120 of the 320 hours may be completed in a community pharmacy setting or in a single department in a hospital pharmacy.

(d) An externship in which a pharmacy technician trainee may participate as described in subdivision (a) shall be for a period of no more than six consecutive months in a community pharmacy and for a total of no more than 12 months if the externship involves rotation between a community and hospital pharmacy. The externship shall be completed while the trainee is enrolled in a course of instruction at the institution.

(e) A pharmacy technician trainee participating in an externship as described in subdivision (a) shall wear identification that indicates his or her trainee status.

(Amended by Stats. 2005, Ch. 621, Sec. 54. Effective January 1, 2006.)

§ 1793.2. Duties of a Pharmacy Technician.

“Nondiscretionary tasks” as used in Business and Professions Code section 4115, include:

- (a) removing the drug or drugs from stock;
- (b) counting, pouring, or mixing pharmaceuticals;
- (c) placing the product into a container;
- (d) affixing the label or labels to the container;
- (e) packaging and repackaging.

Note: Authority cited: Sections 4005, 4007, 4038, 4115 and 4202, Business and Professions Code. Reference: Sections 4005, 4007, 4038, 4115 and 4202, Business and Professions Code.

Operative 10-22-2004

Attachment 3

Proposal to amend § 1732.5 of Article 4 of Division 17 of Title 16 of the California Code of Regulations to read:

§1732.5 Renewal Requirements for Pharmacists

(a) Except as provided in Section 4234 of the Business and Professions Code and Section 1732.6 of this Division, each applicant for renewal of a pharmacist license shall submit proof satisfactory to the board, that the applicant has completed 30 hours of continuing education in the prior 24 months.

(b) At least six (6) of the thirty (30) hours required for pharmacist license renewal shall be completed in one or more of the following subject areas:

- (1) Emergency/Disaster Response
- (2) Patient Consultation
- (3) Maintaining Control of a Pharmacy's Drug Inventory
- (4) Ethics
- (5) Substance Abuse, Including Indications of Red Flags and a Pharmacist's Corresponding Responsibility
- (6) Compounding

Pharmacists renewing their licenses which expire on or after July 1, 2018, shall be subject to the requirements of this subdivision.

~~(b)~~ (c) All pharmacists shall retain their certificates of completion for four (4) years following completion of a continuing education course.

Authority cited: Section 4005, Business and Professions Code. Reference: Sections 4231 and 4232, Business and Professions Code.

Attachment 4

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DEPARTMENT OF JUSTICE



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March 28, 2016

Virginia K. Herold
Executive Officer
California State Board of Pharmacy
1625 North Market Blvd., Suite N-219
Sacramento, CA 95834

Re: **ISSUING PHARMACY PERMITS TO TRUSTS**
California State Board of Pharmacy

Dear Ms. Herold:

I am writing to provide you with an analysis regarding the issuance of pharmacy permits to trusts.¹ As you are well aware, the law requires the Board to prevent pharmacies from being owned by the wrong types of persons, including convicted criminals and potentially self-interested prescribers.

Staff have recently raised concerns regarding trusts on two fronts: (1) Whether this form of ownership provides opportunities for hidden and/or undisclosed ownership shares; and (2) Whether the Pharmacy Law contemplates ownership of or beneficial interests in pharmacy licenses held by trusts. As to the former, there are certainly legitimate reasons to hold ownership in trust. However, there are also ways in which trust ownership can be manipulated to prevent full or accurate tracking of ownership shares or beneficial interests.

Trusts appear to be the vehicle of choice for hiding assets for the following reasons:

(i) Unlike business entities which are legal persons, common-law trusts are mere contractual relationships between settlors (who place property into trust), beneficiaries (for whom the trust is operated), and trustees (who hold legal title to the property). Because they are not entities or persons, they usually do not have to register with any state authority. When business entities register with state authorities, they are subject to reporting requirements. Trusts do not operate in this manner.

(ii) It is well established that common law trusts cannot be sued. (*Presta v. Tepper* (2009) 179 Cal.App.4th 909, 915; *Powers v. Ashton* (1975) 45 Cal.App.3d 783, 787.) If

¹ I remind you that what follows are solely my own opinion(s), my best effort(s) to provide legal assistance to you and/or to the Board. This is not an official "opinion" of the Attorney General.

you want to sue for actions done by the property in trust, you have to sue the trustee. If you want to sue a trustee, you have to find him, her, or it. If the trustee is located in a foreign jurisdiction, United States courts may have no jurisdiction over the trustee. Even if the trustee is merely in another state, California courts may have trouble reaching him or her.

(iii) It is much easier for trusts to operate offshore in jurisdictions that have extensive privacy protections such as the Cayman Islands. Persons in these offshore jurisdictions are unlikely to be subject to California laws, and would not respond to subpoenas from California courts, let alone California agencies.

(iv) Trusts are not required to follow any "corporate formalities" (e.g., annual meetings, registration with the secretary of state) the way most corporate entities are.

(v) True ownership and control of property held in trust is often governed by complex documents and discretionary relationships. For example, a trust may have hundreds of nominal beneficiaries according to the trust document, though as a practical matter, the trustee holds property (and takes instructions from) one or two of the beneficiaries. A corporate entity is generally not allowed to have such discretionary relationships among its owners. Who has control of the property held by a trust is a highly fact specific determination.

Thus, the lack of oversight by government agencies and corresponding reporting obligations and complex structure make it much easier to hide ownership in trusts than business entities.

According to the plain language² of the applicable statutes, trusts are not authorized to conduct pharmacies in California. Namely, Business and Professions Code section 4110, subd. (a), provides that "no person shall conduct a pharmacy in the State of California unless he or she has obtained a license from the board." Business and Professions Code section 4035 defines "person"³ to "include[] firm, association, partnership, corporation, limited liability company, state governmental agency, or political subdivision."

A trust is not included within the definition of "person" in section 4035. The Legislative History reveals that in 1951, "business trust" was included within the definition of "person" in

² California courts will give effect to the legislative intent of a statute, holding that the first and most important "source" for ascertaining the intent of a statute is its plain language. "[C]ourts are bound to give effect to statutes according to the usual, ordinary import of the language employed in framing them...it should first turn to the words of the statute to determine the intent of the Legislature... If the words of the statute are clear, the court should not add to or alter them to accomplish a purpose that does not appear on the face of the statute or from its legislative history." (See, e.g., *California Teachers Assn. v. San Diego Community College Dist.* (1981) 28 Cal.3d 692, 698; *Dept. of Alcoholic Bev. Control v. Alcoholic Bev. Control Appeals Bd.* (2003) 109 Cal.App.4th 1687, 1695-96; see *Arnett v. Dal Cielo* (1996) 14 Cal.4th 4, 22 ["Courts should give meaning to every word . . . if possible, and should avoid a construction making any word surplusage."].)

³ The definition of "person" in section 4035 governs the construction of the term, "person" in Business and Professions Code section 4110, subd. (a). (Bus. & Prof. § 4015).

Virginia K. Herold

March 28, 2016

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the predecessor statute to section 4035 but subsequently removed in 1953 and not added when the statute was reenacted in 1955, possibly omitting trusts intentionally from the definition.

Indeed, under California law, a common-law trust⁴ is not a legal "person" or entity; rather, it is a fiduciary relationship. (*Presta v. Tepper, supra*, 179 Cal.App.4th at 914 (a "trust is not an entity separate from its trustees. In contrast to a corporation which is a '...distinct legal entity separate from its shareholder and from its officers' and deemed a person within many legal constructs, a ...trust is not a person but rather a 'fiduciary relationship with respect to property' [citations omitted]."))

Although many trusts are established for legitimate reasons, the Board needs the tools to assess whether a trust has been established for legitimate reasons or to hide ownership, in order to effectively fulfill its administrative mandate of preventing ownership of pharmacies by the wrong types of individuals. Therefore, if the Board decides to continue issuing pharmacy permits to trusts, we recommend that Business and Professions Code section 4201 and California Code of Regulations, title 16, section 1709 be amended to require trusts to disclose the identity of all trustees, beneficiaries and grantors of a trust and to deem trustees, beneficiaries and grantors to hold a "beneficial interest" in the assets of the trust, triggering disclosure whenever there is a change in *any* amount of beneficial interest.

I hope this analysis will be helpful to you and to the Board. As always, please feel free to contact me with questions.

Sincerely,

DESIREE I. KELLOGG
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

Cc: Linda K. Schneider (via email)

Joshua A. Room (via email)

Matthew C. Heyn (via email)

DIK:naa

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⁴ Only specific types of trusts such as Real Estate Investment Trusts (REITS) and Registered Business Trusts are considered legal persons.



March 23, 2016

Virginia Herold, Executive Officer
California State Board of Pharmacy Licensing Committee
1625 N. Market Blvd., N219
Sacramento, CA 95834

Re: Trusts as Owners or "Persons Beneficially Interested" In Licensed Pharmacies

Dear Ms. Herold:

I write to express the concern of the National Association of Chain Drug Stores (NACDS) regarding proposed limits on the ability of trusts to own or hold beneficial interests in licensed pharmacies. NACDS understands that the Licensing Committee will consider this issue in a meeting on March 30, 2016. We ask the Licensing Committee to maintain California's longstanding practice of allowing trusts to own or hold interests in pharmacies. A narrow interpretation of the applicable statute would harm patient care by unnecessarily restricting pharmacy operations in California.

NACDS represents traditional drug stores, supermarkets and mass merchants with pharmacies. Chains operate more than 40,000 pharmacies. NACDS chain member companies include regional chains, with a minimum of four stores, as well as national companies. Chain pharmacies employ more than 3.2 million individuals, including 179,000 pharmacists. They fill over 2.9 billion prescriptions yearly, and help patients use medicines correctly and safely, while offering innovative services that improve patient health and healthcare affordability. NACDS members also include more than 850 supplier partners and over 60 international members representing 22 countries.

NACDS wholeheartedly supports the legal and factual analysis set forth in the letter to you from Christine Cassetta of Quarles & Brady LLP dated March 21, 2016. As that letter explains, the statutory definition of "person" includes a "firm," and a trust is clearly a type of "firm." See Ca. Bus. & Prof. Code § 4035; Black's Law Dictionary (definitions of "firm" and "company"). Therefore, a trust is a "person" that may own or hold an interest in a pharmacy.

A narrow interpretation of the statutory definition of "person" would be contrary to the Board of Pharmacy's longstanding practices. We understand that the Board has historically granted pharmacy licenses when trusts hold interests in pharmacies. The Board's own newsletter has suggested that a license may be granted where a trust owns a pharmacy. See California Board of Pharmacy, *The Script* (Jan 2008), available at http://www.pharmacy.ca.gov/meetings/agendas/2009/09_jun_lic_mat.pdf. Similarly, the Board has a longstanding practice of approving licenses for pharmacies owned by individuals, despite the fact that individuals are not listed as a type of "person" in the

statute. *See* Community Pharmacy Permit Application, Section B (pharmacy license for “Individual Owner who is not incorporated”), available at http://www.pharmacy.ca.gov/forms/phy_app_pkt.pdf. Likewise, the statutory definition of “person” does not expressly include Native American tribes, yet the Board has a longstanding practice of granting licenses to pharmacies owned by Native American tribes. *See id.*, Section G (pharmacy license “for Native American tribe owned pharmacy”). A narrow interpretation of “person” would result in wholesale restructuring of the Board’s approach to pharmacy licensure.

A narrow interpretation of “person” would also be contrary to the interests of pharmacy patients. We understand that trusts may often hold interests in pharmacies. Individuals, Native American tribes and others not specifically enumerated in the statutory definition of “person” also own or hold interests in pharmacies. Access to pharmacy care would be severely restricted if the Board of Pharmacy begins denying or revoking the licenses of such pharmacies. Rather than deny or revoke all of these pharmacy licenses, we ask the Licensing Committee to recognize that the term “firm” as used in the definition of “person” is a broad category that encompasses a wide range of business entities, including trusts.

Limiting the ability of trusts to hold interests in pharmacies would disrupt the operations of multi-state pharmacies that are partially or entirely owned by trusts. This is particularly true of publicly traded companies, which the Board of Pharmacy recognizes may have a shareholder that is a “trust company.” *See* Requirements For Filing A Community Pharmacy Application, p. 4, available at http://www.pharmacy.ca.gov/forms/phy_app_pkt.pdf. The same is true for non-publicly traded companies that have trusts as shareholders. Multi-state pharmacy chains owned in whole or in part by trusts should not have to face the choice of either radically restructuring their ownership or being shut out of the California market. Such an onerous burden on interstate commerce would be inappropriate. Smaller pharmacy companies would also be harmed. As the Board’s newsletter pointed out, pharmacies can be held in trusts as a proper estate planning mechanism, to help ensure that proper operation of pharmacies may continue from one generation to the next. A pharmacy’s license should not be revoked just because a pharmacy owner uses a trust to maintain a family business.

There is no convincing rationale for preventing trusts from owning or holding interests in pharmacies. There is simply no reason to believe that trusts are somehow less trustworthy or less deserving of a pharmacy license than the individuals, Native American tribes, LLCs, corporations and other “persons” that are routinely granted pharmacy licenses. Without a legitimate basis and logical explanation for denying trusts a role in pharmacy ownership, it would be arbitrary and capricious for the Board of Pharmacy to reverse its longstanding practice of broadly interpreting the statutory definition of “person” to include trusts and other “firms.”

In conclusion, NACDS respectfully requests that the Licensing Committee decline to adopt any change to the Board's longstanding practice of allowing trusts to hold interests in licensed pharmacies. We appreciate the opportunity to comment on this important issue. If you have any questions or would like additional information, please contact me at (703) 837-4231 or at dbell@NACDS.org.

Sincerely,

A handwritten signature in black ink that reads "Don L. Bell, II". The signature is written in a cursive, flowing style with a large initial "D".

Don L. Bell, II
Senior Vice President and General Counsel



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March 21, 2016

VIA E-MAIL TRANSMISSION ONLY

virginia.herold@dca.ca.gov

California State Board of Pharmacy
Licensing Committee
c/o Virginia Herold, Executive Officer
1625 N. Market Blvd., N219
Sacramento, CA 95834

Re: Trusts as a Shareholder or Member "Person Beneficially Interested" in a Pharmacy

Dear California State Board of Pharmacy Licensing Committee:

We will be attending the March 30, 2016 Licensing Committee (Committee) meeting to participate in the Committee's consideration of trusts as a "person beneficially interested" in a pharmacy. We respectfully request that you consider this letter at or before the March 30, 2016 meeting.

We became aware of this issue at the beginning of March when we were informed that a decision had been made that trusts could not own a pharmacy because a trust is not included in the definition of "person" in Ca. Bus. & Prof. Code § 4035. Although these two pharmacies were ultimately granted their permits, we were informed that the position that a trust could not be a person beneficially interested in a pharmacy because a trust was not a "person" would be submitted to the Licensing Committee for their review and consideration. If the Licensing Committee agreed that a trust could not be a shareholder or member of a person beneficially interested in a pharmacy, any application that so identified a trust would be denied.

It is unclear why this position has been adopted and how a long-standing Board practice and interpretation has been changed, particularly when there is no statutory amendment to any relevant provision, no rule adoption, no court opinion, and no Board action that requires this change. This change was also made prior to any Board meeting to discuss this change and no opportunity for public comment. Rather, this proposed change appears to be an internal change of opinion regarding what "person" means. We are aware of many currently licensed entities that have a trust as a shareholder or member of a person beneficially interested and we are certain

that there are many thousands more. This position is a major departure from prior Board practice. This departure is evidenced by a 2008 Board newsletter that discusses and acknowledges that trusts may be owners (beneficially interested) in a pharmacy. This discussion was under the heading "Answers to Estate Planning Questions Related to Pharmacies" and instructed that a change of ownership was to be filed when the ownership of a pharmacy was to be placed in a trust after the death of a sole-surviving parent. If a trust was prohibited from being a shareholder or member of a person beneficially interested in a pharmacy, we are certain that the newsletter would not have instructed that a change of ownership be filed. Rather it would have indicated that a trust could not be a person beneficially interested in a pharmacy and instructed that the ownership of the pharmacy not be placed in trust.

(http://www.pharmacy.ca.gov/publications/08_jan_script.pdf). (See attached.)

This proposed limitation will have far-reaching and unintended consequences. Any existing California pharmacy, no matter how long it has been in operation, no matter the size of its patient population and no matter the risk nature of the patient population, would have to shut down if, somewhere among the persons beneficially interested in the pharmacy, a member or shareholder is a trust. This seriously jeopardizes patient safety and limits patient choice of pharmacies.

A trust is a frequently used estate planning tool that is designed to protect the interests of those who will benefit from the assets of the trust and is a common mechanism to avoid probate and protect an individual's life-long efforts. A trust also reduces tax liability to the survivors. If owners of a pharmacy have instituted an estate plan that utilizes a trust in accord with the laws of California or their state of residence, they should not be forced to change their plan and hold their asset in a manner that is not in their best interest. This change of position regarding the ability of a trust to be a shareholder or member of a person beneficially interested in a pharmacy is unnecessarily disruptive and will cause serious estate planning issues for those who are protecting their asset by holding it in trust.

Analysis of Relevant Statutes

The newly stated position is that a trust cannot be a "person beneficially interested" in a pharmacy because "trust" is not included in the definition of "person." This position is incorrect for two reasons. First, this position incorrectly applies the statutory definitions by failing to recognize that a trust may be a "person" under the statute and that, by separate definition, a "person beneficially interested" in a pharmacy may include a trust. Second, this position fails to recognize that while the statute provides for a pharmacy license to be issued to the person who operates the pharmacy, it separately provides for information to be provided as to the persons beneficially interested in the entity operating the pharmacy.

The definition of "person" reads as follows: "Person includes firm, association, partnership, corporation, limited liability company, state governmental agency, or political subdivision." Ca. Bus. & Prof. Code § 4035. *This definition has remained unchanged since its adoption in 1996.* Note that the definition does *not* include "individual". As such, if the position is that a trust

cannot be a person beneficially interested in a pharmacy because it is not included in the definition of "person," there would similarly be no authority under California law for the Board to issue a license to an individual owner of a pharmacy. We know that this is not true and the Board issues licenses to persons who own their pharmacies as individuals.

In addition, the term "person" includes a trust because "person" includes "firm" and "firm" is defined to include "trust". The applicable pharmacy provisions do not define "firm". As such, we look outside of the provisions to the general definition of "firm". Black's Law Dictionary defines "firm" as follows:

"firm *n.* (18c) 1. The title under which one or more persons conduct business jointly. 2. The association by which persons are united for business purposes. • Traditionally, this term has referred to a partnership, as opposed to a company. ***But today it frequently refers to a company.***" (emphasis added). A "company" is then defined as follows: "company (13c) 1. A corporation — or, less commonly, an association, partnership, or union — that carries on a commercial or industrial enterprise. 2. A corporation, partnership, association, joint-stock company, ***trust***, fund, or organized group of persons, whether incorporated or not, and (in an official capacity) any receiver, trustee in bankruptcy, or similar official, or liquidating agent, for any of the foregoing. Investment Company Act § 2(a)(8) (15 USCA § 80a-2(a)(8)). — Abbr. co.; com." (emphasis added).

"Firm" includes a trust and trust is, therefore, a "person".

Further, a "person beneficially interested" is specifically defined in California law a shareholder, manager, or member of an LLC or a shareholder, officer or director of a corporation. There is nothing in this definition that precludes a trust from being a shareholder, manager, or member of an entity. Even if we accept that the definition of "person" controls, a "trust" is a "firm" as used in this definition.

The position regarding trusts is also not supported by the entirety of the applicable statutory and regulatory scheme. Specifically, a "pharmacy" is a "premises licensed by the board in which the profession of pharmacy is practiced. . . ." Cal. Bus & Prof. Code § 4037. California law provides that "no person shall conduct a pharmacy in the State of California unless he or she [note the use of "he or she" even though the definition of "person" does not include individuals] has obtained a license from the Board." *Id.* at § 4110(a). California regulations provide that a permit must show the name and address of the pharmacy and *the form of ownership*. See Cal. Code Regs. tit. 16, § 1709. All California pharmacy permits that we have ever seen have the name of the pharmacy and the form of ownership of the entity that actually runs the pharmacy, not each and every entity that is beneficially interested in pharmacy. As such, the permit is issued to the entity that actually ***owns and operates*** the pharmacy. For most pharmacies, this is usually a limited liability company or corporation, both of which are included in the definition of "person".

The entity that operates the pharmacy is the applicant and ultimate license holder, and *not* the person or persons beneficially interested therein is clear from Cal. Bus. & Prof. Code § 4201 (a) and (f). Subsection (a) refers to the "applicant" *and* to the "person beneficially interested" in the applicant. This recognizes that the person beneficially interest in the pharmacy is *not* the applicant. "Person beneficially interested" is separately and specifically defined in section 4201. For an LLC it includes each officer, member or manager. For a corporation it includes officers, directors and shareholders. Section 4201 recognizes that there is an applicant for the permit - the pharmacy entity - *and* that the Board requires information from those persons beneficially interested in the pharmacy. It does not say that the applicant (the entity to whom the permit is issued) *is* the person or persons beneficially interested in the pharmacy. If so, again, each and every entity in the chain of those beneficially interested would be on the permit and named in any action against the pharmacy. We know that this is not the case. The requirement of section 4201 is to list those persons beneficially interested and they are not the same as the applicant and the ultimate permit holder.

While we maintain that revealing this information for the applicant entity is all that is required by statute and there is no need to go further "up the chain", even applying this language all the way "up the chain" of persons beneficially interested in an applicant, there is no prohibition on the ultimate shareholders, members or managers of a disclosed entity being a trust. The trust will be listed as required on the application as either a member or manager of a limited liability company or a shareholder of a corporation and the relevant information regarding the trust will be provided. This identification stops the chain just as it would if it listed individuals as shareholders of a corporate entity at the top of the chain of persons beneficially interested or if it indicated that the corporation was publicly traded.

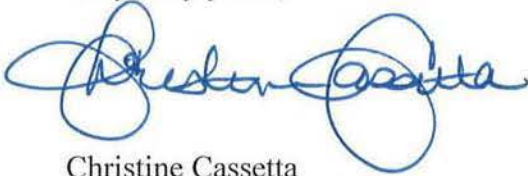
Finally, subsection (f) of section 4201 says that the pharmacy license *authorizes the holder to conduct pharmacy*. This subsection, and subsection (a) support that the permit is issued to the applicant, be it a limited liability company or a corporation. Even if one was to accept the proposed definition of "person," a limited liability company and a corporation are absolutely qualified to hold the permit.

We respectfully request that the Licensing Committee decline to adopt any change to the Board's long-standing practice of allowing trusts to be members or managers of limited liability companies or shareholders of a corporation. There is no policy reason for this proposed change in position and this position is not consistent with applicable California law or the Board's long-standing interpretation of the applicable law. Any decision to disallow trust ownership of pharmacies will have a far reaching and negative impact on pharmacies both inside and outside of California and will cause serious disruptions in patient care.

March 21, 2016
Page 5

Please contact me at (602) 229-5258 or at christine.cassetta@quarles.com if you have any questions. I will also be present at the March 30 meeting to present our position and to answer any questions that you may have.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Christine Cassetta", with a large, stylized loop at the end.

Christine Cassetta

Encl.



April 21, 2016

Amy Gutierrez, Pharm.D.
President, California Board of Pharmacy
1625 N Market Blvd. Ste., N-219
Sacramento, CA 95834

RE: Support of Continuing to Allow Trusts to Hold Pharmacy Ownership Interests in California

Dear Dr. Gutierrez:

A number of members of the California Pharmacists Association (CPhA) are pharmacy and/or other licensed entity owners who hold their ownership interests in any number of different types of Trusts. Trusts are important, prevalent, and widely-accepted legal vehicles used by individuals, spouses, and families to allow for estate planning and control of assets therein.

We oppose any effort to stop allowing Trusts to hold ownership interests in any licensed facility, as well as any efforts to impose any additional administrative burdens regarding licensure renewals, change of ownership, or initial licensure issuances involving the same. While we appreciate the Board's need to safeguard Californians, we believe the current robust procedural processes imposed by the Board's Licensing and Enforcement Divisions more than adequately prevent would-be criminal enterprises and unlawful ventures.

We support and encourage the Board to continue allowing Trusts to hold ownership interests in pharmacies and other entities licensed by the California State Board of Pharmacy, and oppose any measure to either restrict ownership interest or create any additional administrative burden on Trusts.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brian Warren', is written over a horizontal line.

Brian Warren
Vice President, Center for Advocacy

Attachment 5

Board of Pharmacy Licensing Statistics - Fiscal Year 2015/16

APPLICATIONS

Received	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Designated Representatives (EXC)	42	63	44	41	38	33	27	31	35	46	59	44	503
Designated Representatives Vet (EXV)	0	1	0	0	0	0	0	0	0	2	2	2	7
Designated Representatives-3PL (DRL)	16	19	5	32	14	14	12	18	8	20	8	33	199
Intern Pharmacist (INT)	59	518	582	302	84	78	102	122	120	164	151	79	2361
Pharmacist (exam applications)	201	126	109	149	123	100	117	105	146	313	1067	472	3028
Pharmacist (initial licensing applications)	139	661	107	397	153	139	63	70	101	46	15	68	1959
Pharmacy Technician (TCH)	596	486	607	558	440	438	424	555	497	490	549	617	6257
Centralized Hospital Packaging (CHP)	0	0	0	0	0	0	1	0	0	0	0	0	1
Clinics (CLN)	6	6	17	13	10	9	3	8	8	6	9	24	119
Clinics Exempt (CLE)	3	3	4	1	1	0	1	0	3	2	2	1	21
Drug Room (DRM)	0	0	0	0	0	0	1	0	0	0	0	2	3
Drug Room -Temp	0	0	0	0	0	0	0	0	0	0	0	1	1
Drug Room Exempt (DRE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Hospitals (HSP)	7	0	0	2	0	1	0	2	8	1	7	0	28
Hospitals - Temp	5	0	0	0	0	0	0	0	4	0	3	0	12
Hospitals Exempt (HPE)	0	0	0	0	0	1	0	0	0	1	1	0	3
Hypodermic Needle and Syringes (HYP)	0	0	1	0	2	3	2	3	0	2	1	0	14
Hypodermic Needle and Syringes Exempt (HYE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Correctional Pharmacy (LCF)	0	0	0	0	0	0	0	0	1	0	1	0	2
Pharmacy (PHY)	35	49	49	86	246	61	41	34	38	33	41	41	754
Pharmacy - Temp	5	17	22	60	225	20	12	11	8	13	10	16	419
Pharmacy Exempt (PHE)	0	0	0	1	0	2	1	0	0	2	3	0	9
Pharmacy Nonresident (NRP)	12	16	19	12	17	14	8	14	9	14	20	16	171
Pharmacy Nonresident Temp	1	0	2	3	3	3	3	4	0	3	6	7	35
Sterile Compounding (LSC)	10	13	11	11	6	2	6	6	7	5	5	7	89
Sterile Compounding - Temp	6	5	6	5	2	2	1	1	5	0	3	2	38
Sterile Compounding Exempt (LSE)	0	0	0	0	0	3	0	0	0	3	1	0	7
Sterile Compounding Nonresident (NSC)	2	3	2	6	4	4	2	5	3	0	4	2	37
Sterile Compounding Nonresident Temp	0	0	0	1	0	0	3	1	2	1	0	1	9
Third-Party Logistics Providers (TPL)	2	2	1	1	0	0	1	3	1	1	1	1	14
Third-Party Logistics Providers - Temp	0	0	0	0	0	0	0	0	0	0	0	0	0
Third-Party Logistics Providers Nonresident (NPL)	5	3	2	11	5	2	1	5	3	4	4	7	52
Third-Party Logistics Providers Nonresident Temp	0	0	0	0	0	0	0	0	0	1	0	0	1
Veterinary Food-Animal Drug Retailer (VET)	0	0	0	0	1	5	0	0	0	0	0	0	6
Veterinary Food-Animal Drug Retailer - Temp	0	0	0	0	0	5	0	0	0	0	0	0	5
Wholesalers (WLS)	13	7	11	2	9	19	6	2	9	6	7	6	97
Wholesalers - Temp	4	0	1	1	0	6	0	0	0	0	0	0	12
Wholesalers Exempt (WLE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers Nonresident (OSD)	10	13	13	12	1	11	9	7	6	11	10	19	122
Wholesalers Nonresident - Temp	2	0	2	5	5	3	0	3	1	1	1	5	28
Total	1181	2011	1617	1712	1389	978	847	1010	1023	1191	1991	1473	16423

All change of location applications are reported under the license type as a new license is issued effective 11/1/2014

Board of Pharmacy Licensing Statistics - Fiscal Year 2015/16

APPLICATIONS (continued)

Issued	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Designated Representatives (EXC)	34	39	36	54	26	27	29	53	31	22	31	40	422
Designated Representatives Vet (EXV)	0	0	0	0	1	0	0	0	0	0	1	1	3
Designated Representatives-3PL (DRL)	34	19	19	14	25	8	22	13	6	12	5	10	187
Intern Pharmacist (INT)	103	222	639	408	105	59	57	40	140	106	108	129	2116
Pharmacist (initial licensing applications)	146	451	342	223	280	175	68	52	80	83	23	55	1978
Pharmacy Technician (TCH)	717	592	488	591	633	475	296	413	501	481	326	338	5851
Centralized Hospital Packaging (CHP)	1	0	0	0	0	0	0	1	1	0	0	0	3
Clinics (CLN)	12	7	10	9	10	8	7	11	7	10	2	3	96
Clinics Exempt (CLE)	1	0	0	4	3	2	1	1	0	0	1	1	14
Drug Room (DRM)	1	0	0	0	0	0	0	0	0	0	0	1	2
Drug Room-Temp	0	0	0	0	0	0	0	0	0	1	0	1	2
Drug Room Exempt (DRE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Hospitals (HSP)	0	1	1	2	1	0	0	1	1	1	1	1	10
Hospitals - Temp	1	4	0	0	0	1	0	0	0	0	1	3	10
Hospitals Exempt (HPE)	0	1	0	0	1	0	0	0	1	1	0	0	4
Hypodermic Needle and Syringes (HYP)	0	6	1	0	0	0	0	4	0	2	0	1	14
Hypodermic Needle and Syringes Exempt (HYE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Correctional Pharmacy (LCF)	0	0	0	0	0	0	0	0	1	1	0	0	2
Pharmacy (PHY)	30	36	38	49	35	282	34	47	30	35	24	31	671
Pharmacy - Temp	7	2	4	0	9	7	1	5	5	2	2	13	57
Pharmacy Exempt (PHE)	1	0	1	1	0	1	1	0	1	1	0	0	7
Pharmacy Nonresident (NRP)	3	9	5	7	6	5	12	9	18	11	10	18	113
Pharmacy Nonresident Temp	5	5	0	1	0	2	4	1	0	1	0	3	22
Sterile Compounding (LSC)	3	1	3	4	6	1	2	7	6	5	2	4	44
Sterile Compounding - Temp	2	6	0	0	4	0	0	0	0	1	0	3	16
Sterile Compounding Exempt (LSE)	0	0	1	1	0	0	0	0	0	4	1	0	7
Sterile Compounding Nonresident (NSC)	2	1	3	1	1	3	1	1	0	1	1	1	16
Sterile Compounding Nonresident Temp	0	0	0	1	0	1	3	1	0	0	0	1	7
Third-Party Logistics Providers (TPL)	3	1	2	1	2	1	1	0	2	0	2	0	15
Third-Party Logistics Providers-Temp	0	0	0	1	0	0	0	0	0	0	0	0	1
Third-Party Logistics Providers Nonresident (NPL)	10	2	6	3	8	2	15	9	1	1	0	1	58
Third-Party Logistics Providers Nonresident Temp	0	0	0	0	0	0	0	0	0	0	0	0	0
Veterinary Food-Animal Drug Retailer (VET)	0	0	0	0	0	0	0	0	0	5	0	0	5
Veterinary Food-Animal Drug Retailer - Temp	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers (WLS)	7	3	7	4	8	6	6	3	2	7	3	8	64
Wholesalers - Temp	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers Exempt (WLE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers Nonresident (OSD)	11	4	9	8	5	9	9	7	6	8	4	8	88
Wholesalers Nonresident - Temp	0	0	0	1	0	1	0	0	0	0	0	1	3
Total	1134	1412	1615	1388	1169	1076	569	679	840	802	548	676	11908

Board of Pharmacy Licensing Statistics - Fiscal Year 2015/16

APPLICATIONS (continued)

Pending	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Designated Representatives (EXC)	228	257	263	24	257	255	249	225	214	218	239	248
Designated Representatives Vet (EXV)	3	4	2	2	2	2	2	1	1	2	3	4
Designated Representatives-3PL (DRL)	120	109	95	92	78	72	63	68	73	77	77	101
Intern Pharmacist (INT)	102	384	313	184	146	162	175	263	230	243	252	208
Pharmacist (exam applications)	905	805	750	824	849	828	826	873	941	1044	1637	1326
Pharmacist (eligible exam)	1981	1709	1501	1259	1013	873	854	817	784	844	1237	1902
Pharmacy Technician (TCH)	1228	992	1130	1081	879	852	824	929	1068	918	1237	1530
Centralized Hospital Packaging (CHP)	16	16	16	13	13	13	13	12	9	9	9	9
Clinics (CLN)	66	72	74	73	73	77	75	71	68	69	72	95
Clinics Exempt (CLE)	10	11	15	14	12	10	11	9	12	14	16	16
Drug Room (DRM)	1	1	1	2	3	3	5	5	4	5	6	3
Drug Room Exempt (DRE)	0	0	0	1	1	1	1	0	0	0	0	0
Hospitals (HSP)	22	14	14	14	12	10	12	14	21	18	20	19
Hospitals Exempt (HPE)	4	4	4	3	2	3	3	3	2	2	3	1
Hypodermic Needle and Syringes (HYP)	14	8	8	9	10	13	12	10	10	10	11	10
Hypodermic Needle and Syringes Exempt (HYE)	0	0	0	0	0	0	0	0	0	0	0	0
Correctional Pharmacy (LCF)	0	0	0	0	0	0	0	1	1	0	1	1
Pharmacy (PHY)	210	208	207	182	424	196	197	178	169	159	172	165
Pharmacy Exempt (PHE)	4	5	4	4	4	5	5	6	4	5	6	5
Pharmacy Nonresident (NRP)	203	204	212	215	226	233	223	223	177	151	145	121
Sterile Compounding (LSC)	44	44	49	53	48	46	46	46	44	43	45	44
Sterile Compounding - Exempt (LSE)	6	7	6	5	5	8	8	8	7	5	6	6
Sterile Compounding Nonresident (NSC)	38	40	41	42	46	42	39	41	39	41	40	36
Third-Party Logistics Providers (TPL)	12	13	11	10	8	8	8	11	10	11	9	10
Third-Party Logistics Providers Nonresident (NPL)	52	54	49	56	54	51	38	34	35	37	40	46
Veterinary Food-Animal Drug Retailer (VET)	1	1	1	1	1	6	6	7	7	2	2	2
Wholesalers (WLS)	57	61	65	61	63	77	74	74	76	74	78	72
Wholesalers Exempt (WLE)	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers Nonresident (OSD)	73	83	86	88	95	96	98	102	100	98	108	117
Total	5400	5106	4917	4312	4324	3942	3867	4031	4106	4099	5471	6097

The number of temporary applications are included in the primary license type.

Board of Pharmacy Licensing Statistics - Fiscal Year 2015/16

APPLICATIONS (continued)													
Withdrawn													
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Designated Representatives (EXC)	1	5	2	2	2	7	4	6	14	5	3	0	51
Designated Representatives Vet (EXV)	0	0	2	0	0	0	0	1	0	0	0	0	3
Designated Representatives-3PL (DRL)	0	0	1	0	0	1	0	0	1	0	2	2	7
Intern Pharmacist (INT)	0	0	0	0	0	0	0	1	0	0	0	0	1
Pharmacist (exam applications)	0	1	0	0	0	1	1	0	0	0	0	0	3
Pharmacist (initial licensing applications)	0	0	0	0	0	0	0	0	0	0	0	0	0
Pharmacy Technician (TCH)	132	53	11	13	16	10	11	13	0	6	9	12	286
Centralized Hospital Packaging (CHP)	0	0	0	0	0	0	0	0	2	0	0	0	2
Clinics (CLN)	0	1	0	3	0	0	0	0	1	0	0	1	6
Clinics Exempt (CLE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Room (DRM)	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Room Exempt (DRE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Hospitals (HSP)	0	4	0	0	0	0	0	0	0	0	0	1	5
Hospitals Exempt (HPE)	0	0	0	0	0	0	0	0	0	0	0	1	1
Hypodermic Needle and Syringes (HYP)	4	0	0	0	0	0	2	1	0	1	0	0	8
Hypodermic Needle and Syringes Exempt (HYE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Correctional Pharmacy (LCF)	0	0	0	0	0	0	0	0	0	0	0	0	0
Pharmacy (PHY)	0	1	3	4	8	1	1	3	4	3	2	8	38
Pharmacy Exempt (PHE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Pharmacy Nonresident (NRP)	20	1	2	3	0	0	4	2	34	23	17	22	128
Sterile Compounding (LSC)	1	4	1	0	3	2	0	1	4	0	0	1	17
Sterile Compounding Exempt (LSE)	0	0	0	0	0	0	0	0	1	0	0	0	1
Sterile Compounding Nonresident (NSC)	0	0	1	1	0	1	1	0	3	2	1	3	13
Third-Party Logistics Providers (TPL)	0	0	1	0	0	0	0	0	0	0	0	0	1
Third-Party Logistics Providers Nonresident (NPL)	0	0	1	1	0	0	0	0	1	0	2	0	5
Veterinary Food-Animal Drug Retailer (VET)	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers (WLS)	1	0	0	2	0	0	1	1	2	1	0	0	8
Wholesalers Exempt (WLE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers Nonresident (OSD)	0	2	1	1	0	2	2	0	2	2	1	2	15
Total	159	72	26	30	29	25	27	29	69	43	37	53	599
The number of temporary applications withdrawn is reflected in the primary license type.													

Board of Pharmacy Licensing Statistics - Fiscal Year 2015/16

APPLICATIONS (continued)													
Denied	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Designated Representatives (EXC)	1	0	0	0	0	0	0	0	0	0	0	0	1
Designated Representatives Vet (EXV)	0	0	0	0	0	0	0	0	0	0	0	0	0
Designated Representatives-3PL (DRL)	0	0	0	0	0	0	0	0	0	0	0	0	0
Intern Pharmacist (INT)	0	0	0	1	0	1	1	1	0	0	0	0	4
Pharmacist (exam applications)	2	0	0	1	0	3	2	0	1	0	0	1	10
Pharmacist (initial licensing applications)	0	0	0	0	1	0	0	0	0	0	0	0	1
Pharmacy Technician (TCH)	3	8	10	2	4	7	2	4	7	1	11	3	62
Centralized Hospital Packaging (CHP)	0	0	0	0	0	0	0	0	0	0	0	0	0
Clinics (CLN)	0	0	0	0	0	0	0	0	0	0	0	0	0
Clinics Exempt (CLE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Room (DRM)	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Room Exempt (DRE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Hospitals (HSP)	0	0	0	0	0	0	0	0	0	0	0	0	0
Hospitals Exempt (HPE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Hypodermic Needle and Syringes (HYP)	0	0	0	0	0	0	0	0	0	0	0	0	0
Hypodermic Needle and Syringes Exempt (HYE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Correctional Pharmacy (LCF)	0	0	0	0	0	0	0	0	0	0	0	0	0
Pharmacy (PHY)	1	6	0	0	2	0	1	1	1	2	2	1	17
Pharmacy Exempt (PHE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Pharmacy Nonresident (NRP)	0	1	0	0	0	0	0	0	0	0	0	1	2
Sterile Compounding (LSC)	0	0	0	0	0	0	0	0	0	0	0	0	0
Sterile Compounding Exempt (LSE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Sterile Compounding Nonresident (NSC)	0	0	0	0	0	0	0	0	1	0	0	1	2
Third-Party Logistics Providers (TPL)	0	0	0	0	0	0	0	0	0	0	0	0	0
Third-Party Logistics Providers Nonresident (NPL)	0	0	0	0	0	0	0	0	0	0	0	0	0
Veterinary Food-Animal Drug Retailer (VET)	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers (WLS)	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers Exempt (WLE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Wholesalers Nonresident (OSD)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	7	15	10	4	7	11	6	6	10	3	13	7	99

Board of Pharmacy Licensing Statistics - Fiscal Year 2015/16

RESPOND TO STATUS REQUESTS**A. Email Inquiries**

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Pharmacist/Intern Received	633	520	433	546	387	294	326	417	506	492	522	669	5745
Pharmacist/Intern Responded	550	452	400	455	361	285	273	360	392	441	390	497	4856
Pharmacy Technician Received	29	31	107	248	229	179	220	238	338	300	363	305	2587
Pharmacy Technician Responded	36	41	72	167	251	190	214	121	292	213	267	79	1943
Pharmacy Received	480	458	429	548	444	441	575	619	759	729	693	742	6917
Pharmacy Responded	384	370	404	381	320	204	369	376	357	660	241	565	4631
Sterile Compounding Received	187	190	167	204	154	263	155	313	401	384	276	477	3171
Sterile Compounding Responded	88	129	135	125	112	160	119	261	365	315	238	445	2492
Wholesale/Clinic/Hypodermic/3PL Received	255	260	428	306	315	344	446	545	651	502	303	417	4772
Wholesale/Clinic/Hypodermic/3PL Responded	164	468	296	240	416	240	310	512	518	429	367	333	4293
Pharmacist-in-Charge Received	245	186	162	210	148	118	178	138	163	115	169	201	2033
Pharmacist-in-Charge Responded	190	150	139	143	98	68	126	102	114	80	111	117	1438
Change of Permit Received	272	399	502	555	348	379	396	421	318	398	407	473	4868
Change of Permit Responded	355	287	329	381	250	280	323	321	212	317	319	373	3747
Renewals Received	127	202	170	255	201	165	289	227	214	245	263	342	2700
Renewals Responded	109	186	157	213	129	104	220	136	172	162	176	226	1990

B. Telephone Calls Received

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Pharmacist/Intern	204	191	141	112	121	117	93	102	191	157	92	110	1631
Pharmacy	348	185	132	134	115	96	92	105	113	115	73	92	1600
Sterile Compounding	72	39	21	70	27	22	22	24	24	49	68	52	490
Wholesale/Clinic/Hypodermic/3PL	109	120	134	136	96	133	122	113	124	128	116	180	1511
Pharmacist-in-Charge	91	64	76	132	90	74	69	90	91	85	84	89	1035
Change of Permit	32	60	79	85	50	22	35	61	53	57	81	65	680
Renewals	631	655	650	788	477	611	706	620	682	551	557	750	7678

UPDATE LICENSING RECORDS**A. Change of Pharmacist-in-Charge**

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Received	177	181	218	165	219	231	177	209	163	197	213	241	2391
Processed	196	233	208	197	86	142	229	253	287	225	190	182	2428
Pending	284	246	114	225	332	429	402	356	207	198	240	303	303

B. Change of Desig. Representative-in-Charge

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Received	18	18	14	15	15	16	9	16	11	14	10	17	173
Processed	20	25	11	15	16	8	15	13	16	14	9	19	181
Pending	51	56	50	52	39	46	42	42	29	22	20	23	23

C. Change of Responsible Manager

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Received	0	0	0	0	0	0	0	0	0	0	1	1	2
Processed	0	0	0	0	0	0	0	0	0	0	0	1	1
Pending	0	0	0	0	0	0	0	0	0	0	1	2	2

D. Change of Permits

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Received	164	77	142	149	112	95	167	171	145	273	195	180	1870
Processed	152	311	56	83	73	273	3	103	357	200	285	183	2079
Pending	621	403	459	583	601	513	651	688	680	842	783	849	849

E. Discontinuance of Business

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Received	33	43	46	39	30	29	33	27	42	23	46	41	432
Processed	34	29	51	37	12	40	30	35	35	44	36	40	423
Pending	78	88	82	93	87	95	112	114	104	86	103	102	102

F. Requests Approved

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Address/Name Changes	1053	1209	1022	1027	832	878	959	1001	1036	908	972	1095	11992
Off-site Storage	52				50		29			32			163
Transfer of Intern Hours	3	7	5	3	1	5	8	12	9	5	1	0	59
License Verification	139	116	121	115	231	151	123	304	155	226	178	160	2019

Board of Pharmacy Licensing Statistics - Fiscal Year 2015/16

Revenue Received

A. Revenue Received

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Applications	203,149	282,959	383,966	293,075	380,040	369,048	171,101	214,960	113,716	260,674	438,374		\$3,111,060
Renewals	843,082	1,573,955	1,016,429	2,287,772	973,220	1,134,359	948,319	1,015,399	1,122,330	1,232,078	496,276		\$12,643,220
Cite and Fine	93,883	97,483	193,670	147,727	176,949	271,973	144,563	152,659	177,211	171,913	125,909		\$1,753,940
Probation/Cost Recovery	61,591	84,166	200,259	39,882	41,522	16,753	104,439	46,985	36,624	80,797	259,416		\$972,434
Request for Information/Lic. Verification	1,640	1,740	2,705	1,978	4,230	3,660	2,965	6,570	1,735	3,300	5,760		\$36,283
Fingerprint Fee	7,595	6,811	7,203	9,212	5,710	8,428	6,321	8,526	5,978	12,201	18,620		\$96,605

B. Licenses Renewed

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Designated Representatives (EXC)	173	245	208	195	178	212	156	228	244	246	199	218	2502
Designated Representatives Vet (EXV)	12	5	5	2	1	5	2	5	4	7	5	13	66
Designated Representatives-3PL (DRL)	0	0	0	0	0	0	0	0	3	8	25	17	53
Pharmacist (RPH)	1648	1629	1895	1739	1525	1830	1483	1543	1687	1924	1512	1985	20400
Pharmacy Technician (TCH)	2569	2531	2708	2481	2329	2532	2358	2440	2774	2975	2229	2988	30914

Centralized Hospital Packaging (CHP)	0	0	0	0	0	0	0	0	0	0	0	0	0
Clinics (CLN)	83	78	68	69	54	59	91	99	86	89	102	97	975
Clinics Exempt (CLE)	2	4	85	96	5	5	2	1	7	0	5	0	212
Drug Room (DRM)	2	0	2	0	1	2	2	2	3	3	2	0	19
Drug Room Exempt (DRE)	0	1	2	7	2	0	0	0	0	0	0	0	12
Hospitals (HSP)	19	16	26	82	21	30	42	32	32	27	29	32	388
Hospitals Exempt (HPE)	0	8	42	24	3	1	1	0	0	1	1	0	81
Hypodermic Needle and Syringes (HYP)	18	18	21	24	31	19	22	26	26	20	14	20	259
Hypodermic Needle and Syringes Exempt (HYE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Correctional Pharmacy (LCF)	0	2	30	20	0	0	0	0	1	0	0	0	53
Pharmacy (PHY)	213	338	171	1489	279	644	485	458	736	952	177	285	6227
Pharmacy Exempt (PHE)	0	7	76	34	1	0	1	2	0	0	2	0	123
Pharmacy Nonresident (NRP)	29	30	25	31	38	32	39	30	30	26	31	50	391
Sterile Compounding (LSC)	57	35	50	156	44	51	52	79	57	53	58	69	761
Sterile Compounding Exempt (LSE)	0	1	11	95	0	2	0	0	0	1	4	1	115
Sterile Compounding Nonresident (NSC)	7	6	5	7	6	8	6	5	5	10	3	8	76
Third-Party Logistics Providers (TPL)	0	0	0	0	0	0	0	0	0	0	0	1	1
Third-Party Logistics Providers Nonresident (NPL)	0	0	0	0	0	0	2	0	0	0	10	0	12
Veterinary Food-Animal Drug Retailer (VET)	3	4	4	3	1	2	1	0	3	1	0	2	24
Wholesalers (WLS)	44	51	41	37	24	37	18	40	33	39	36	55	455
Wholesalers Exempt (WLE)	0	2	0	3	2	1	0	0	0	0	0	1	9
Wholesalers Nonresident (OSD)	59	50	58	52	54	47	36	36	56	54	48	51	601
Total	4938	5061	5533	6646	4599	5519	4799	5026	5787	6436	4492	5893	64729

Board of Pharmacy Licensing Statistics - Fiscal Year 2015/16

Current Licensees													
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Designated Representatives (EXC)	3080	3121	3159	3204	3235	3016	3066	3096	3127	3148	3018	3055	3055
Designated Representatives Vet (EXV)	69	69	69	69	70	65	65	65	65	65	63	64	64
Designated Representatives-3PL (DRL)	45	66	85	97	123	130	161	165	171	183	188	198	198
Intern Pharmacist (INT)	6305	6166	6459	6586	6420	6378	6391	6389	6456	6501	6591	6364	6364
Pharmacist (RPH)	42638	43100	43294	43472	43744	43822	43819	43818	43831	43839	43813	43818	43818
Pharmacy Technician (TCH)	74728	74875	74664	74656	74863	74561	74306	74059	73875	73769	73542	73289	73289
Centralized Hospital Packaging (CHP)	5	5	5	3	3	3	3	3	8	8	8	8	8
Clinics (CLN)	1168	1168	1170	1175	1182	1188	1193	1200	1200	1200	1078	1073	1073
Clinics Exempt (CLE)	244	243	247	247	249	252	251	252	252	247	234	235	235
Drug Room (DRM)	25	25	25	25	24	24	24	23	24	23	23	23	23
Drug Room Exempt (DRE)	14	14	13	13	13	13	13	14	14	14	13	13	13
Hospitals (HSP)	400	400	399	398	398	398	398	399	399	399	397	395	395
Hospitals Exempt (HPE)	85	86	86	86	86	86	86	85	86	86	86	87	87
Hypodermic Needle and Syringes (HYP)	278	281	281	281	281	281	282	283	282	284	284	285	285
Hypodermic Needle and Syringes Exempt (HYE)	0	0	0	0	0	0	0	0	0	0	0	0	0
Correctional Pharmacy (LCF)	53	53	53	53	53	53	53	53	54	55	55	55	55
Pharmacy (PHY)	6451	6439	6453	6463	6445	6454	6472	6486	6485	6486	6432	6440	6440
Pharmacy Exempt (PHE)	124	124	124	124	124	125	126	124	124	124	124	126	126
Pharmacy Nonresident (NRP)	456	455	458	462	468	470	479	487	498	500	502	509	509
Sterile Compounding (LSC)	816	816	810	810	809	804	805	812	813	809	806	796	796
Sterile Compounding Exempt (LSE)	121	121	121	121	120	120	118	117	117	120	121	121	121
Sterile Compounding Nonresident (NSC)	91	91	94	95	95	97	98	98	97	96	93	92	92
Third-Party Logistics Providers (TPL)	3	4	6	8	10	11	12	12	14	14	16	16	16
Third-Party Logistics Providers Nonresident (NPL)	10	14	18	21	29	33	50	57	58	59	59	60	60
Veterinary Food-Animal Drug Retailer (VET)	24	24	24	24	24	24	23	23	23	23	23	23	23
Wholesalers (WLS)	626	623	622	622	628	629	628	629	625	621	552	556	556
Wholesalers Exempt (WLE)	16	16	16	16	16	16	16	16	16	16	16	16	16
Wholesalers Nonresident (OSD)	833	826	819	818	815	820	817	811	809	811	718	726	726
Total	138708	139225	139574	139949	140327	139873	139755	139576	139523	139500	138855	138443	138443

Attachment 6

BOARD OF PHARMACY LICENSING STATISTICS

FISCAL YEAR COMPARISON

FY 13/14

FY 14/15

FY 15/16















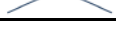











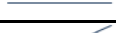








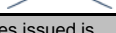








% CHANGE

TREND LINES

APPLICATIONS

A. Received

Pharmacist (exam applications)	2682	3122	3028	13%	
Pharmacist (initial licensing applications)	1789	2093	1959	10%	
Intern Pharmacist	2187	2329	2361	8%	
Pharmacy Technician	8211	7151	6257	-24%	
Pharmacy	416	1532	754	81%	
Pharmacy Exempt	5	9	9	80%	
Pharmacy - Temp	131	1233	419	220%	
Sterile Compounding	671	148	89	-87%	
Sterile Compounding - Exempt	100	19	7	-93%	
Sterile Compounding - Temp	16	58	38	138%	
Nonresident Sterile Compounding	16	22	37	131%	
Nonresident Sterile Compounding - Temp	3	7	9	200%	
Clinics	73	101	119	63%	
Clinics Exempt	42	16	21	-50%	
Hospitals	29	34	28	-3%	
Hospitals Exempt	1	5	3	200%	
Hospitals - Temp	17	21	12	-29%	
Drug Room	1	1	3	200%	
Drug Room Exempt	1	0	0	-100%	
Drug Room - Temp	1	0	1	0%	
Nonresident Pharmacy	150	146	171	14%	
Nonresident Pharmacy - Temp	31	27	35	13%	
Licensed Correctional Facility	1	0	2	100%	
Hypodermic Needle and Syringes	15	32	14	-7%	
Hypodermic Needle and Syringes Exempt	0	0	0	0%	
Nonresident Wholesalers	89	112	122	37%	
Nonresident Wholesalers - Temp	14	13	28	100%	
Wholesalers	91	85	97	7%	
Wholesalers Exempt	1	1	0	-100%	
Wholesalers - Temp	14	7	12	-14%	
Third-Party Logistics Providers	n/a	11	14	n/a	
Third-Party Logistics Providers-Temp	n/a	0	0	n/a	
Nonresident Third-Party Logistics Providers	n/a	57	52	n/a	
Nonresident Third-Party Logistics Providers-Temp	n/a	1	1	n/a	
Veterinary Food-Animal Drug Retailer	1	1	6	500%	
Veterinary Food-Animal Drug Retailer - Temp	0	0	5	n/a	
Designated Representatives	532	446	503	-5%	
Designated Representatives Vet	5	9	7	40%	
Designated Representatives-3PL	n/a	85	199	n/a	
Centralized Hospital Packaging	9	5	1	-89%	
Total	17345	18939	16423	-5%	

APPLICATIONS (continued)	FY 13/14	FY 14/15	FY 15/16	% CHANGE	TREND LINES
B. Issued					
Pharmacist	1836	2021	1978	8%	
Intern Pharmacist	1913	2389	2116	11%	
Pharmacy Technician	6816	8028	5851	-14%	
Pharmacy	345	1433	728	111%	
Pharmacy - Exempt	5	5	7	40%	
Pharmacy-Temp*	0	0	0	0%	
Sterile Compounding	570	101	60	-89%	
Sterile Compounding - Exempt	94	15	7	-93%	
Sterile Compounding-Temp*	0	0	0	0%	
Nonresident Sterile Compounding	16	15	23	44%	
Nonresident Sterile Compounding-Temp*	0	0	0	0%	
Clinics	65	57	96	48%	
Clinics Exempt	25	18	14	-44%	
Hospitals	22	14	20	-9%	
Hospitals Exempt	2	2	4	100%	
Hospital-Temp*	0	0	0	0%	
Drug Room	1	1	4	300%	
Drug Room Exempt	0	1	0	0%	
Drug Room-Temp*	0	0	0	0%	
Nonresident Pharmacy	87	68	135	55%	
Nonresident Pharmacy-Temp*	0	0	0	0%	
Licensed Correctional Facility	1	0	2	100%	
Hypodermic Needle and Syringes	11	15	14	27%	
Hypodermic Needle and Syringes Exempt	0	3	0	0%	
Nonresident Wholesalers	81	39	91	12%	
Nonresident Wholesalers-Temp*	0	0	0	0%	
Wholesalers	44	52	64	45%	
Wholesalers Exempt	1	1	0	-100%	
Wholesalers-Temp*	0	0	0	0%	
Third-Party Logistics Providers	n/a	0	16	n/a	
Third-Party Logistics Providers-Temp*	n/a	0	0	n/a	
Nonresident Third-Party Logistics Providers	n/a	2	58	n/a	
Nonresident Third-Party Logistics Providers-Temp*	n/a	0	0	n/a	
Veterinary Food-Animal Drug Retailer	0	0	5	n/a	
Veterinary Food-Animal Drug Retailer-Temp*	0	0	0	0%	
Designated Representatives	387	301	422	9%	
Designated Representatives Vet	13	5	3	-77%	
Designated Representatives-3PL	n/a	11	187	n/a	
Centralized Hospital Packaging	1	2	3	200%	
Total	12336	14599	11908	-3%	
Designated Representatives Vet	3	13	5	40%	
Designated Representatives-3PL	n/a	n/a	12	n/a	
Centralized Hospital Packaging	0	1	2	100%	
Total	13096	15220	13088	0%	
* The number of temporary licenses issued is reflected in the number reported for the permanent license. The number of temporary licenses issued is reflected in the FY15/16 licensing stats. Previous fiscal years are not available.					

APPLICATIONS (continued)	FY 13/14	FY 14/15	FY 15/16	% CHANGE	TREND LINES
C. Pending					
Pharmacist (exam applications)	697	1046	1326	90%	
Pharmacist (eligible)	1459	1821	1902	30%	
Intern Pharmacist	307	161	208	-32%	
Pharmacy Technician	2512	1467	1530	-39%	
Pharmacy	197	227	165	-16%	
Pharmacy - Exempt	0	4	5	n/a	
Sterile Compounding	57	42	44	-23%	
Sterile Compounding - Exempt	4	7	6	50%	
Nonresident Sterile Compounding	30	37	36	20%	
Clinics	57	70	95	67%	
Clinics - Exempt	19	8	16	-16%	
Hospitals	6	24	19	217%	
Hospitals - Exempt	1	4	1	0%	
Drug Room	0	2	3	n/a	
Drug Room - Exempt	1	0	0	-100%	
Nonresident Pharmacy	141	219	121	-14%	
Licensed Correctional Facility	0	0	1	n/a	
Hypodermic Needle and Syringes	10	17	10	0%	
Hypodermic Needle and Syringes - Exempt	0	0	0	0%	
Nonresident Wholesalers	74	73	117	58%	
Wholesalers	77	53	72	-6%	
Wholesalers - Exempt	0	0	0	0%	
Third-Party Logistics Providers	n/a	13	10	n/a	
Nonresident Third-Party Logistics Providers	n/a	57	46	n/a	
Veterinary Food-Animal Drug Retailer	2	1	2	0%	
Designated Representatives	213	226	248	16%	
Designated Representatives Vet	0	3	4	n/a	
Designated Representatives-3PL	n/a	140	101	n/a	
Centralized Hospital Packaging (updated 6/2014)	13	16	9	-31%	
Total	5877	5738	6097	4%	

*Temporary applications are not included in pending as number is calculated in the primary license type.

APPLICATIONS (continued)	FY 13/14	FY 14/15	FY 15/16	% CHANGE	TREND LINES
D. Withdrawn					
Pharmacist	227	61	3	-99%	
Intern Pharmacist	29	8	1	-97%	
Pharmacy Technician	783	373	286	-63%	
Pharmacy	20	45	38	90%	
Pharmacy - Exempt	0	0	0	0%	
Pharmacy - Temp*	0	0	0	0%	
Sterile Compounding	2	16	17	750%	
Sterile Compounding - Exempt	0	0	1	n/a	
Sterile Compounding - Temp*	0	0	0	0%	
Nonresident Sterile Compounding	1	2	13	1200%	
Nonresident Sterile Compounding - Temp*	0	0	0	0%	
Clinics	3	27	6	100%	
Clinics - Exempt	6	9	0	-100%	
Hospitals	0	7	5	n/a	
Hospitals - Exempt	0	0	1	n/a	
Hospitals - Temp*	0	0	0	0%	
Drug Room	0	0	0	0%	
Drug Room - Exempt	0	0	0	0%	
Nonresident Pharmacy	9	3	128	1322%	
Nonresident Pharmacy - Temp*	0	0	0	0%	
Licensed Correctional Facility	0	0	0	0%	
Hypodermic Needle and Syringes	8	1	8	0%	
Hypodermic Needle and Syringes - Exempt	0	0	0	0%	
Nonresident Wholesalers	39	42	15	-62%	
Nonresident Wholesalers - Temp*	0	0	0	0%	
Wholesalers	37	25	8	-78%	
Wholesalers - Exempt	1	4	0	-100%	
Wholesalers - Temp*	0	0	0	0%	
Third-Party Logistics Providers	n/a	1	1	n/a	
Nonresident Third-Party Logistics Providers	n/a	0	5	n/a	
Veterinary Food-Animal Drug Retailer	1	0	0	-100%	
Veterinary Food-Animal Drug Retailer - Temp*	0	0	0	0%	
Designated Representatives	63	96	51	-19%	
Designated Representatives Vet	0	0	3	n/a	
Designated Representatives-3PL	n/a	0	7	n/a	
Centralized Hospital Packaging	0	0	2	0%	
Total	1229	720	599	-51%	
* The number of temporary applications withdrawn is reflected in the number reported for the primary license type.					

APPLICATIONS (continued)**FY 13/14****FY 14/15****FY 15/16****% CHANGE****TREND LINES****E. Denied**

Pharmacist (exam applications)

8

9

10

25%



Pharmacist (eligible)

0

2

1

n/a



Intern Pharmacist

5

3

4

-20%



Pharmacy Technician

45

56

62

38%



Pharmacy

10

20

17

70%



Pharmacy - Exempt

0

0

0

0%



Pharmacy - Temp*

0

0

0

0%



Sterile Compounding

4

6

0

-100%



Sterile Compounding - Exempt

0

0

0

0%



Sterile Compounding - Temp*

0

0

0

0%



Nonresident Sterile Compounding

0

0

2

n/a



Nonresident Sterile Compounding-Temp*

0

0

0

0%



Clinics

0

0

0

0%



Clinics - Exempt

0

0

0

0%



Hospitals

0

0

0

0%



Hospitals - Exempt

0

0

0

0%



Hospitals - Temp*

0

0

0

0%



Drug Room

0

0

0

0%



Drug Room - Exempt

0

0

0

0%



Drug Room - Temp*

0

0

0

0%



Nonresident Pharmacy

3

0

2

-33%



Nonresident Pharmacy - Temp*

0

0

0

0%



Licensed Correctional Facility

0

0

0

0%



Hypodermic Needle and Syringes

0

0

0

0%



Hypodermic Needle and Syringes - Exempt

0

0

0

0%



Nonresident Wholesalers

0

1

0

0%



Nonresident Wholesalers - Temp*

0

0

0

0%



Wholesalers

1

1

0

-100%



Wholesalers - Exempt

0

0

0

0%



Wholesalers - Temp*

0

0

0

0%



Third-Party Logistics Providers

n/a

0

0

n/a



Nonresident Third-Party Logistics Providers

n/a

0

0

n/a



Veterinary Food-Animal Drug Retailer

0

0

0

0%



Veterinary Food-Animal Drug Retailer - Temp*

0

0

0

0%



Designated Representatives

0

3

1

n/a



Designated Representatives Vet

0

0

0

0%



Designated Representatives-3PL

n/a

0

0

n/a



Centralized Hospital Packaging

0

1

0

0%



Total

76

102

99

30%



* The number of temporary applications denied is reflected in the number reported for the primary license type.

RESPOND TO STATUS REQUESTS

FY 13/14

FY 14/15

FY 15/16

% CHANGE

TREND LINES

A. E-mail status requests and inquiries

Pharmacist/Intern

4134

3102

4856

17%



Pharmacy Technicians

6219

480

1943

-69%



Site Licenses (pharmacy)

2957

1961

4631

57%



Site Licenses (wholesalers, clinic)

3170

2767

4293

35%



Pharmacist-in-Charge

2583

1832

1438

-44%



Change of Permit

n/a

n/a

3747

n/a



Renewals

1795

1218

1990

11%

**B. Telephone status requests and inquiries**

Site Licenses (pharmacy)

1554

1169

1600

3%



Site Licenses (wholesalers, clinic)

2014

604

1511

-25%



Pharmacist-in-Charge

887

733

1035

17%



Change of Permit

n/a

n/a

1035

n/a



Renewals

6136

6154

7678

25%

**III. UPDATE LICENSING RECORDS****A. Change of Pharmacist-in-Charge**

Received

1501

1963

2391

59%



Processed

1314

1549

2428

85%



Pending

103

342

303

194%

**B. Change of Designated Representative-in-Charge**

Received

161

142

173

7%



Processed

109

192

181

66%



Pending

103

51

23

-78%

**C. Change of Responsible Managing Employee**

Received

n/a

n/a

2

n/a



Processed

n/a

n/a

1

n/a



Pending

n/a

n/a

2

n/a

**D. Change of Permit**

Received

905

1390

1870

107%



Processed

745

1262

2079

179%



Pending

267

579

849

218%

**E. Discontinuance of Business**

Received

259

294

432

67%



Processed

171

364

423

147%



Pending

176

75

102

-42%

**F. Requests Processed**

Address/Name Changes

11395

12249

11992

5%



Off-site Storage

183

242

163

-11%



Transfer of Intern Hours

110

135

59

-46%



License Verification

2045













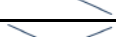
















2001

2019

-1%



Revenue Received		FY 13/14	FY 14/15	FY 15/16 *	% CHANGE	TREND LINES
A. Revenue Received						
		\$15,220,814	\$18,477,835		n/a	
Applications		\$2,942,227	\$4,291,854		n/a	
Renewals		\$9,320,801	\$11,957,896		n/a	
Cite and Fine		\$2,174,492	\$1,606,121		n/a	
Probation/Cost Recovery		\$635,786	\$468,145		n/a	
Request for Information/Lic. Verification		\$39,439	\$41,290		n/a	
Fingerprint Fee		\$108,069	\$112,529		n/a	
* Total Fiscal Year Revenue is not available at this time.						
B. Renewals Received						
Pharmacist		19044	19103	20400	7%	
Pharmacy Technician		30561	30718	30914	1%	
Pharmacy		6051	5213	6227	3%	
Pharmacy - Exempt		118	118	123	4%	
Sterile Compounding		237	711	761	221%	
Sterile Compounding - Exempt		23	113	115	400%	
Nonresident Sterile Compounding		71	79	76	7%	
Clinics		927	980	975	5%	
Clinics - Exempt		196	206	212	8%	
Hospitals		395	388	388	-2%	
Hospitals - Exempt		86	86	81	-6%	
Drug Room		22	21	19	-14%	
Drug Room - Exempt		11	1	12	9%	
Nonresident Pharmacy		341	398	391	15%	
Licensed Correctional Facility		51	52	53	4%	
Hypodermic Needle and Syringes		244	260	259	6%	
Hypodermic Needle and Syringes - Exempt		0	0	0	0%	
Nonresident Wholesalers		621	666	601	-3%	
Wholesalers		469	484	455	-3%	
Wholesalers - Exempt		13	13	9	-31%	
Third-Party Logistics Providers		n/a	0	1	n/a	
Nonresident Third-Party Logistics Providers		n/a	0	12	n/a	
Veterinary Food-Animal Drug Retailer		21	18	24	14%	
Designated Representatives		2595	2645	2502	-4%	
Designated Representatives Vet		69	54	66	-4%	
Designated Representatives-3PL		n/a	0	53	n/a	
Centralized Hospital Packaging		0	0	0	0%	
Total		62166	62327	64729	4%	

License Population	FY 13/14	FY 14/15	FY 15/16	% CHANGE	TREND LINES
Pharmacist	41176	42521	43818	6%	
Intern Pharmacist	6012	6354	6364	6%	
Pharmacy Technician	73558	74586	73289	0%	
Pharmacy	6363	6449	6440	1%	
Pharmacy - Exempt	119	123	126	6%	
Sterile Compounding	786	814	796	1%	
Sterile Compounding - Exempt	115	122	121	5%	
Nonresident Sterile Compounding	88	91	92	5%	
Clinics	1152	1158	1073	-7%	
Clinics - Exempt	234	244	235	0%	
Hospitals	407	399	395	-3%	
Hospitals - Exempt	87	86	87	0%	
Drug Room	25	24	23	-8%	
Drug Room - Exempt	14	14	13	-7%	
Nonresident Pharmacy	517	453	509	-2%	
Licensed Correctional Facility	53	53	55	4%	
Hypodermic Needle and Syringes	343	279	285	-17%	
Hypodermic Needle and Syringes - Exempt	0	0	0	0%	
Nonresident Wholesalers	823	824	726	-12%	
Wholesalers	610	623	556	-9%	
Wholesalers - Exempt	15	16	16	7%	
Third-Party Logistics Providers	n/a	0	16	n/a	
Nonresident Third-Party Logistics Providers	n/a	2	60	n/a	
Veterinary Food-Animal Drug Retailer	25	24	23	-8%	
Designated Representatives	3498	3050	3055	-13%	
Designated Representatives Vet	78	69	64	-18%	
Designated Representatives-3PL	n/a	12	198	n/a	
Centralized Hospital Packaging	1	3	8	700%	
Total	136099	138393	138443	2%	

Attachment 7



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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

**STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
LICENSING COMMITTEE MEETING
MINUTES**

DATE: June 22, 2016

LOCATION: University of Southern California – Orange County Center
2300 Michelson Drive
Irvine, CA 92612

COMMITTEE MEMBERS PRESENT: Stanley Weisser, Chairperson
Albert Wong, Licensee Member
Allen Schaad, Licensee Member
Victor Law, Licensee Member

COMMITTEE MEMBERS NOT PRESENT: Gregory Murphy, Public Member
Ricardo Sanchez, Public Member

STAFF MEMBERS PRESENT: Virginia Herold, Executive Officer
Anne Sodergren, Assistant Executive Officer
Debbie Damoth, Staff Manager
Laura Freedman, DCA Staff Counsel

1. Call to Order and Establish of Quorum

Chairperson Weisser called the meeting to order at 10:00 am. Roll call was taken with the following members present: Stan Weisser, Allen Schaad, Victor Law and Albert Wong.

Board President Amy Gutierrez administered the oath to newly reappointed board members Victor Law and Albert Wong.

2. Public Comment for Items Not on the Agenda, Matters for Future Meetings

A representative from the California Society of Health Systems Pharmacists (CSHP) indicated that CSHP was pleased to see the board and this committee were taking a proactive role on reviewing pharmacy technicians and asked that the board consider its role in hospital setting after implementation of the provisions in Senate Bill 493 (Chapter 469, Statutes of 2013) and Senate Bill 952 (current session) are complete.

A representative from Kaiser requested that the committee consider future discussion on the challenges hospitals face opening a new hospital with the current timing of licensure requirements with the California Department of Public Health.

3. Consideration of Possible Revisions to Regulation(s) Regarding Pharmacy Technician Training Programs (Title 16 CCR §1793.6)

Chairperson Weisser reminded the committee that for several meetings, the committee has been discussing the requirements for licensure as a pharmacy technician. As part of its discussion the committee has reviewed the various pathways to licensure, as well as enforcement actions and denials of applications. The committee has heard presentations about the certification exams used for licensure, presentations by various employers about their training programs, as well as a presentation about upcoming changes to technician training programs accredited by the American Society of Health Systems Pharmacists.

As part of the report, Chairperson Weisser noted that the committee and board have expressed concern about some individuals that are seeking licensure through technician training programs (programs that can be quite costly) that have criminal backgrounds that most likely will result in denial of the application. The committee recognizes that not all such training programs are equal in terms of the quality of the program, but expressed concern that the minimum requirements established in law for these programs may no longer be adequate.

Those in attendance were reminded that during the January 2016 board meeting, the board agreed with the recommendations of the committee in concept to modify Title 16 CCR section 1793.6 to strengthen the requirements of some pharmacy technician programs to include a minimum age requirement at admission (18 years old), a criminal background check and to administer at least one drug test. Further, the program would be required to administer a final examination.

Chairperson Weisser review the proposed language included in the meeting materials.

As part of its discussion, the committee discussed the potential need to increase the experiential training requirements for technician training programs and some of the potential challenges with placing technician trainings in pharmacies to gain such experience. The committee was advised that such a change goes beyond the regulation and would require a statutory change.

The committee discussed the specific regulatory change proposal and heard public comment in support of the proposal. Counsel recommended some minor changes to the language.

MOTION: Recommend that the board approve proposed amendments to section 1793.6 incorporating the changes suggested by counsel (VL/AW) 4-0.

Draft Proposal to Amend Section 1793.6

1793.6. Training Courses Specified by the Board.

A course of training that meets the requirements of Business and Professions Code section 4202 (a)(2) is:

- (a) Any pharmacy technician training program accredited by the American Society of Health--System Pharmacists,
- (b) Any pharmacy technician training program provided by a branch of the federal armed services for which the applicant possesses a certificate of completion, or
- (c) (1) Any other course that provides a training period of at least 240 hours of instruction covering at least the following:
 - (1 A) Knowledge and understanding of different pharmacy practice settings.
 - (2 B) Knowledge and understanding of the duties and responsibilities of a pharmacy technician in relationship to other pharmacy personnel and knowledge of standards and ethics, laws and regulations governing the practice of pharmacy.
 - (3 C) Knowledge and ability to identify and employ pharmaceutical and medical terms, abbreviations and symbols commonly used in prescribing, dispensing and record keeping of medications.
 - (4 D) Knowledge of and the ability to carry out calculations required for common dosage determination, employing both the metric and apothecary systems.
 - (5 E) Knowledge and understanding of the identification of drugs, drug dosages, routes of administration, dosage forms and storage requirements.

~~(6)~~ F) Knowledge of and ability to perform the manipulative and record-keeping functions involved in and related to dispensing prescriptions.

~~(7)~~ G) Knowledge of and ability to perform procedures and techniques relating to manufacturing, packaging, and labeling of drug products.

(2) In addition to the content of coursework specified in subdivision (c)(1), the course of training must also satisfy all of the following:

(A) Prior to admission to the course of training, an administrator or instructor must conduct a criminal background check and counsel applicants to the program about the negative impact to securing licensure if the background check reveals criminal history.

(B) Administer at least one drug screening to evaluate use of illicit drugs or use of drugs without a prescription. The results of any screen shall be considered as part of the evaluation criteria to determine acceptance into the course of training or appropriateness for continuation in the course of training. An administrator or instructor shall counsel students about the negative impact of a positive drug screen on eligibility for licensure.

(C) Require students to be at least 18 years of age prior to the beginning of instruction.

(D) Require a final examination that demonstrates students' understanding and ability to perform or apply each subject area identified in subsection (1) above.

Authority cited: Sections 4005, 4007, 4038, 4115, 4115.5, and 4202, Business and Professions Code. Reference: Sections 4005, 4007, 4038, 4115 and 4202, Business and Professions Code.

4. Consideration of the Duties of a Pharmacy Technician and Discussion on the Pharmacist to Pharmacy Technician Ratio in the Community Pharmacy Setting

Chairperson Weisser provided an overview of the agenda item including that Business and Professions Code section 4115 specifies that a pharmacy technician may perform packaging, manipulative, repetitive or other nondiscretionary tasks, only while assisting, and while under the direct supervision and control of a pharmacist. Further, Title 16 California Code of Regulations section 1793.2 specifies specific duties that may be performed by a pharmacy technician including:

- Removing the drug or drugs from stock
- Counting, pouring, or mixing pharmaceuticals
- Placing the product into a container
- Affixing the label or labels to the container
- Packaging and repackaging

Chairperson Weisser reminded the committee that the board requested the committee discuss the current pharmacist to pharmacy technician ratio. Chairperson Weisser commented that the discussion would focus on the community practice setting first.

Chairperson Weisser highlighted how pharmacy technicians have different roles in various states and that ratio requirements vary by jurisdiction as well. Chairperson Weisser noted that the National Association of Boards of Pharmacy is considering this at the national level.

As part of its discussion the committee discussed if there was a need and/or a demand to change the current ratio. Members noted that a change in the ratio requirement may be appropriate if it makes the pharmacist more accessible to consumers. The committee recognized the benefits of a good pharmacy technician and noted that an increase in the ratio could be a double edged sword. The committee noted that an increase in the number of pharmacy technicians would result in additional prescriptions being filled that will require a final check by a pharmacist.

Public comment heard by the committee included several individuals speaking in support for an increase in the current ratio and that an increase could result in better patient outcomes and implementation of the expanded role of a pharmacist.

The committee was advised that CVS completed a study that indicated that when the ratio is 1:1, a pharmacist spends 72% of his or her time performing technician duties. Many individuals present indicated that they believed that the rate of patient consultation will improve if the ratio is increased.

The committee briefly discussed establishing a workload quota and was advised about the challenges such a quota would present given not all work settings are the same and the variances in the duties as well as skills and abilities among pharmacists.

Public comment suggested that the board could maybe consider changes in the ratio based on a technician's experience.

The committee was advised that the California Pharmacists Association (CPhA) is not asking for a change in the ratio, and that its board of trustees did not support a change in the current ratio. CPhA did note, however, that as the role of a pharmacist is changing to more of a service role, some functions could be transitioned to technicians.

The committee requested information from those present about error rates, noting that even anecdotal evidence would be helpful.

MOTION: Recommend convening a summit to discuss this issue. AS/VL 4-0

5. Consideration of Possible Revisions to Pharmacist Renewal Requirements and Content – Specific Continuing Education (Title 16 CCR §1732.5)

Chairperson Weisser provided background information including reminding the committee that in November 2015, the board initiated a rulemaking to amend section 1732.5 to amend continuing education requirements to specify that six of the 30 hours required for pharmacist license renewal shall be completed in specified areas. This proposal was referred back to the Licensing Committee after the board expressed concern that the proposal may be overregulating the continuing education requirements.

The committee discussed the proposal and noted that many of the specified areas were important, including substance abuse, but noted that the topics may not be relevant for all pharmacists. The committee noted that some of the topics would be appropriate for licensees that are cited for violations.

The committee heard public comment in support of requiring law updates as required continuing education.

MOTION: Recommend withdrawal of the proposed regulation change to 1732.5 VL/AS 4-0.

6. Consideration of Ownership Structures for Pharmacies, Including a Presentation by the Office of the Attorney General Regarding Trusts

Chairperson Weisser indicated that the board tracks the beneficial interest of business owners for pharmacies, whether they be a natural person or an entity. Board regulation specifies the reporting of a transfer in the beneficial interest in the business and specifies the threshold as to when a change of ownership must be submitted to the board.

Chairperson Weisser noted that for some, what is initially reported as (what appears to be) a simple, two- or three-level ownership structure, when staff uncovers details, it often turns out to be multiple levels of ownership with multiple stakeholders. Board staff has identified where (revocable or irrevocable) trust(s) is/are reported as owners of the applicant business. Pharmacy Law does not currently recognize a “trust” as a person to which the board is

authorized to issue a license; however, Mr. Weisser noted that it has sometimes occurred in the past.

Chairperson Weisser stated that as the board was advised at the Board Meeting – as with other ownership structures, trusts can be used as a legitimate form of ownership, however they also can be manipulated to hide ownership. Mr. Weisser recommended that the committee carefully consider this issue and determine if it is appropriate to recommend to the board that a trust be authorized to own a pharmacy and – if so – what information should the board require.

The committee heard a presentation by Matthew Heyn, Deputy Attorney General. Mr. Heyn indicated that the board has a problem with hidden ownership. He noted that lawyers around the world have become more sophisticated in hiding ownership and control of assets. Mr. Heyn referenced a very recent example with the Panama Papers which showed that offshore trusts were the method of choice for nefarious individuals who did not want their ownership interests known. Mr. Heyn noted that as part of the Panama Papers, it was revealed that two foreign-owned pharmacies were owned – one by a husband and the other by a wife in trusts that ultimately allowed them to exert monopoly control using their hidden ownership. The problem faced by the board is that it must keep the ownership of a pharmacy out of the hands of bad players, including felons. Mr. Heyn also indicated that there are other individuals, such as prescribers, who are prohibited from ownership of a pharmacy for public policy reasons. He discussed the need to avoid conflicts of interests. He indicated that hidden ownership makes it difficult to determine who is really the owner and provided an example of a convicted drug dealer setting up a trust to hide the true ownership of the pharmacy. Mr. Heyn noted that trusts are very flexible in how they operate, who controls the trust and who benefits from the trust.

Mr. Heyn highlighted the relevant provisions of pharmacy law and noted that when the board is determining if it can issue a license, it looks at the definition in Business and Professions Code section 4035. He noted that a trust is not included in section 4035. Mr. Heyn refuted the assertion made that a “firm” includes a trust. Mr. Heyn noted that there are legitimate reasons to own a trust. He noted that a trust can’t own things; rather a trust is a relationship between the trustee and the beneficiary. Ultimately, the board needs to know who really owns a pharmacy. Mr. Heyn drew a distinction between trusts and other forms of ownership (e.g., corporations) that are required to register and required to file certain documents that detail the owners, officers, members, etc.

Mr. Heyn indicated that the board will need to identify what information is needed if it decides to issue licenses to trusts and suggested that present beneficiaries should be identified.

Ms. Herold noted that there are several items for consideration before the committee, including if the board should allow trusts to own a pharmacy and, if so, what reporting and disclosure requirements are appropriate. Alternatively should the board determine that it is not appropriate for a trust to own a pharmacy and that the law does not authorize such action.

The committee heard public comment from individuals that provided different opinions on the issue including the determination that the board does not currently have the authority to issue a pharmacy license to the trust as well as the definition of a “person” and whether a trust could be included in the current definition. Comments to the committee indicated that the risk presented by trust ownership is no greater than other types of ownership. Comments included that they are not aware of a single application where the trust owns the pharmacy, rather the applicant and permittee owns the pharmacy, which is not the trust. Comments indicated that the board needs to differentiate between the holder of the license and the additional layers of ownership that may be present. The committee was reminded to be mindful of the difference between a revocable trust and an irrevocable trust, as well as direct owners versus indirect owners.

Public comment indicated that in cases where the board has received an application with a trust included as part of the ownership, there is no attempt to hide the ownership. Comments from the public recognized the need for the board to know who owns a pharmacy. Comments from the public supported the possibility of specifying what information must be reported to the board and indicated that it is not appropriate to require the identity of some beneficiaries including minor children. Commenters indicated that reporting a trustee is appropriate and reporting changes in ownership consistent with current legal requirements is also appropriate.

Committee members spoke in support of allowing trusts to own pharmacies and recognized the important role a trust can play in estate planning. The committee spoke of the need to find common ground.

Ms. Herold reminded the committee that it is important to ensure that the board is operating in compliance with the law and with the concurrence of board attorneys. Ms. Herold noted that this is an emerging issue.

The committee asked DCA counsel to assess the issue. The committee was advised that DCA counsel agrees with the determination of the AG's Office about the definition of a "person." Counsel noted that is an issue that needs to be resolved. Counsel sought clarification asking if it is the policy of the committee and board to allow trusts as part of the ownership.

MOTION: Ask legal counsel to review statutes and regulations and propose a fix to resolve the trust issue and how to regulate the entities within the board's regulatory framework.

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The committee noted that part of the solution will need to address those entities that currently include a trust as part of the ownership structure.

7. Licensing Statistics

Licensing Statistics for July 1, 2015 – May 31, 2016

Chairperson Weisser referenced the licensing statistics included in the committee materials.

The committee was advised that staff continue to closely track the licensing unit's processing times for various application types and efforts are still underway to develop more robust reporting reports. The department is implementing Licensing Performance Measures (LMP) processing times for the boards and bureaus but it is not quite complete.

Staff noted that staff is trying to improve its education to applicants about the requirements and application process and that education on this will be included in the board's newsletter.

8. Future Committee Meeting Dates for 2016

September 21, 2016, is the next scheduled committee meeting. Board staff will be working to secure additional meeting dates. If finalized, these dates will be provided during the meeting.

The meeting was adjourned at 3:16 pm.